

Guidelines:

**Cross Referencing and
Level Of Detail**

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What is Cross-Referencing and Level of Detail?

Cross-referencing refers to the practice of referencing an applicable requirement or supporting document in a permit instead of including the entire text of the requirement in the permit. EPA guidance (White Paper 2) allows permits to incorporate applicable requirements into the permit by citation, instead of including the details of these requirements (e.g., EPA approved test methods). This approach is limited to situations where the applicable requirement is readily accessible to the permittee and the public, and to where there is no ambiguity regarding how the requirement applies to the facility. For example, if a rule provides more than one option of how a source can comply, the citation should be specific enough that it is clear which option (or options) the source will be using. Note: if more than one compliance option is identified, an alternative operating scenario should be used to describe how the permit will assure compliance with each option.

Regardless of the amount of **cross-referencing** in a permit, the permit must always contain **sufficient level of detail** to ensure the compliance obligations of the source are clear. Each permitting authority will have different preferred styles and formats for title V permits and different philosophies as to what makes the permit most effective.

CAA section 504(a) states that each permit "shall include enforceable emissions limitations and standards" and "such other conditions as are necessary to assure compliance with the applicable requirements."

Why Review Permits For Cross-Referencing And Level Of Detail?

All permits must clearly identify how the source will ensure compliance with all applicable requirements stated in the permit. Poor cross-referencing and/or vague details about the compliance obligations will lead to ambiguous compliance requirements and may create a permit that is not enforceable as a practical matter. Permitting authorities must balance the streamlining benefits achieved through cross-referencing with the need to issue comprehensive, unambiguous permits useful to all affected parties.

Permits must specify which emissions limits apply to which emission units.

How Do I Review Permits to Ensure Cross-Referencing is Appropriate and There is Adequate Level of Detail?

Whenever a permit contains a cross-referenced requirement it is important to ensure that:

1. the reference is clear (i.e., unambiguous and contains sufficient detail);
2. the referenced material is available to the public; and
3. emission limits are specified.

The Level of Detail in the permit should be sufficient to clearly explain all applicable requirements

Guidelines: Cross Referencing and Level of Detail and the compliance obligations of the source. Permits that specify only general detail (e.g., “source must comply with 40 CFR Part 60”) or rely on extensive cross-referencing likely will not contain clear compliance obligations.

Tips for Reviewing Title V Permits that Contain Cross-Referencing

Tip	Explanation
After permits specify which emissions limits apply to identified emissions units, cross-referencing may be acceptable for other requirements (e.g., monitoring, recordkeeping, and reporting).	Any information cross referenced, or incorporated by reference should be accompanied by a description or identification of the current activities, requirements, or equipment for which the information is referenced.
Information to be cited or cross-referenced must be current and readily available to the permitting agency and to the public.	Referenced documents must be made available (1) as part of the public docket on the permit action or (2) as information available in publicly accessible files located at the permitting authority, unless they are published or are readily available (e.g., regulations printed in the Code of Federal Regulations or its State equivalent)
Citations and references must be clear and unambiguous and enforceable from a practical standpoint.	Citations, cross references, and incorporations by reference must be detailed enough that the manner in which any referenced material applies to a facility is clear and is not subject to misinterpretation. For example, if there are two compliance options available to the source, the permit must specify which option the source shall use.
Referenced documents must also be specifically identified.	Descriptive information such as the title or number of the document and the date of the document must be included so that there is no ambiguity as to which version of which document is being referenced.

Watch Out:

- As described in White Paper 2, it is generally not acceptable to use a combination of referencing certain provisions of an applicable requirement while paraphrasing other provisions of that same applicable requirement. Such a practice, particularly if coupled with a permit shield, could create dual requirements and potential confusion.
- The EPA does not recommend that permitting authorities incorporate into part 70 permits information such as the part 70 permit application (see White Paper 1).

Guidelines: Cross Referencing and Level of Detail

When Reviewing Permits for Cross-Referencing, comment if...

Issue	Example/Explanation	Correction
The permit does not include all emission limits for all emission units (also, the level of detail may not be sufficient).	Example language, “The facility must comply with the emission limits identified in rule 200.”	At a minimum, the permit must contain the full language for each emission limit , including averaging time and other information necessary to understand the limit. Where the SIP-approved and District rule emission limits differ, both emission limits must be given in full unless the source has requested the conditions be streamlined.
If the adoption date of the cited rule is not included	To avoid any confusion as to which version of the rule is cited it is important to include the date of rule adoption	The permit conditions require the company to comply with specific District regulations. If District rules are referenced in the permit instead of being stated word-by-word, the rule adoption date must be included. Referencing the rule adoption date will eliminate ambiguity as the rules change and are renumbered over time.
Permit does not contain sufficient detail to explain compliance obligations	Example permit language “Source must comply with the SO ₂ emission limit in 40 CFR Part 60 Subpart Db.” NSPS allows the source to comply by use of either add-on control or fuel treatment.	When a permit refers to an applicable requirement with multiple compliance options, the permit must detail which of the compliance options will be used.

Guidelines: Cross Referencing and Level of Detail

Tips for Reviewing Permits for Level of Detail

Tip	Explanation
Does permit only identify emission units by generic groups? This approach would allow units subject to specific applicable requirements not to be specifically identified or listed in the permit.	<p>A NESHAP source operates many emission units that are frequently added, removed or changed. The source may also operate similar multiple control devices subject to the same monitoring, recordkeeping, reporting and testing requirements. A contemporaneous on-site log is used to identify specific units and to document changes to and from generic groups.</p> <p>This is a significant policy issue currently under discussion at EPA (See Attachment G – May 20, 1999 letter to STAPPA/ALAPCO). EPA has been exploring this issue through reinvention programs like Project XL, P4 permits, Pharma MACT, etc.</p>
Note: White Paper I allows for the generic grouping of emission units (see pp 9 and 10) provided (1) the class of activities or emissions units subject to the (generic) requirement can be unambiguously defined in a generic manner and where (2) effective enforceability of that requirement does not require a specific listing of subject units or activities. This can apply regardless of the size of the unit.	
Does the permit reference the General Provisions of a specific NESHAP or NSPS standard? Are the standards paraphrased and does the permit also include a citation to the specific requirement?	<p>Permit contains citation to general provisions section and contains a paraphrased statement as to what the compliance obligations are under that section. If the paraphrased statement(s) do not accurately reflect the cited requirements, there could be confusion. To correct the permit the permitting authority should eliminate the paraphrased statement and rely only on the cited section.</p> <p>In general, the more general a reference statement is (e.g., in accordance with 40 CFR Part 60, Subpart O), the less protective of the environment the permit will be.</p>
What level of detail is included in the permit for a specific NESHAP or NSPS Standard?	<p>Here is an example of how the level of detail can vary in a permit...</p> <ol style="list-style-type: none">1. The permittee shall conduct compliance and performance testing in accordance with 40 CFR 63.363.2. The permittee shall conduct an initial performance test on the acid-water scrubber controlling emissions from the sterilizer chamber vents and chamber exhaust vents and on the catalytic oxidizer controlling emissions from the aeration room vent using the procedures listed in 40 CFR 63.7 and in accordance to Table 1 of 40 CFR 63.360 and the procedures listed in 40 CFR 63.363 (b) and © on or before June 4, 1999. <p>Clearly the second example is more detailed and more clearly states the compliance obligations for the source. Each standard will have its own specific requirements that require more or less level of detail.</p> <p>In general, the greater the environmental significance of the requirement the greater the level of detail, e.g., emission limits must have greater level of detail than general provision requirements.</p>

Note: Please refer to the Section entitled: Applicable Requirements: NSPS and NESHAP for a list of questions under discussion at EPA regarding Cross-Referencing and Level of Detail for NESHAP sources. The full discussion on these issues are included in EPA's letter dated May 20, 1999 to STAPPA/ALAPCO (Attachment G).